

Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSEURE

Chapter 83 MESSAGE THERAPY SCHOOLS

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Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSEURE

Chapter 83 MASSAGE THERAPY SCHOOLS

83-001 SCOPE AND AUTHORITY: These regulations apply to the licensing procedures for of Massage Therapy Schools as defined by Neb. Rev. Stat. 71-1,278 to 71-1,282, and the Uniform Licensing Law.

83-002 DEFINITIONS:

Approved School of Massage Therapy means a school which is approved by the Department of Health and Human Services Regulation and Licensure upon recommendation by the Board.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Massage Therapy.

Client means any person with whom the massage therapist has an agreement to provide massage therapy.

Completed Application means an application with all of the information requested on the application filled in, the signature of the applicant, fees and all required documentation submitted.

Course of Study and Training in Massage Therapy means a course of not less 1,000 hours distributed over a term of not less than 9 months.

1. Such study and training must consist of 100 hours in each of the following areas:
 - a. Anatomy which may include but is not limited to structure of the human body, study of cells, tissues, bones, muscles, organ systems, histology, embryology, kinesiology, etc.;
 - b. Health Service Management which may include but is not limited to professional ethics, legalities of massage, business practices, promotion, employment opportunities, oral presentations, telephone techniques, marketing plan, sales techniques, resumes, bookkeeping, financial management, insurance coverage, networking, interview techniques, etc.;
 - c. Hydrotherapy which may include but is not limited to history, benefits of water treatment, cryotherapy, body wraps, salt glows, body shampoos, hot packs, steam cabinets, dry brushing, therapeutic modalities, methods of cold application, heat therapy, contrast baths, skin contra-irritants, spas, etc.;
 - d. Hygiene and Practical Demonstration which may include but is not limited to physiology of digestion, weight control, herbal therapy, nutrition, food combining, supplementation, wellness, hygiene principles and practices, CPR, first aid,

equipment and sanitation, infectious and contagious disease control, various massage therapy techniques and demonstration, hands-on training, student clinic hours, etc.;

- e. Massage which may include but is not limited to history of massage, benefits of massage, physiology of massage, equipment and procedures, psychology of massage, interpersonal client contact, relaxation and visualization, proper draping techniques, general guidelines for massage, principles of body massage, etc.;
 - f. Pathology which may include but is not limited to definition of pathology and disease, pharmacology, pathology of body systems, disease entities including cause and effect, blood pressure, pulse monitoring;
 - g. Physiology which may include but is not limited to endocrinology, biochemistry, interaction of hormones to the body's balance and metabolism, function of human body, and organ systems, etc.; and
2. The remaining 300 hours must be obtained in subject areas related to the clinical practice of massage therapy which may include but is not limited to reflexology, deep tissue massage, Swedish massage, sports massage, pregnancy and infant massage, physiology and psychology of exercise, acupressure therapy, management techniques, stress and practices, hands-on-training, review of health histories, documentation, etc.

Department means the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Division means the Credentialing Division of the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.

Hour means 60 minutes in duration.

Massage Therapist means a person licensed to practice massage therapy.

Massage Therapy means the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy. It does not include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry, is required nor the use of microwave diathermy, shortwave diathermy, ultrasound, transcutaneous electrical nerve stimulation, electrical stimulation of over thirty-five volts, neurological hyperstimulation, or spinal and joint adjustments.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 83.

Official means issued by and under the original seal of the educational institution.

Regularly Licensed Physician means a physician licensed to practice medicine and surgery or osteopathic medicine by the licensing authority in the jurisdiction where the school is located.

Verified means sworn to before a Notary Public.

83-003 REQUIREMENTS FOR ISSUANCE OF A MASSAGE THERAPY SCHOOL LICENSE:

Any person who wishes to operate a massage therapy school must obtain a license. If the school provides only student training, a massage therapy establishment license, pursuant to 172 NAC 82, is not required. However, if the school provides massage therapy services outside of the training program, a massage therapy establishment license must be obtained. An applicant must demonstrate that the following requirements for approval are met.

83-003.01 Initial Licensure Requirements: An applicant for a massage therapy school license must:

1. Have a regularly licensed physician (current license to practice medicine and surgery or Osteopathic Medicine) affiliated with the staff;
2. Employ one or more licensed massage therapists as instructors;
3. Require for admission a diploma from an accredited high school or its equivalent;
4. Have a continuous course of study and training of not less than 1,000 hours, distributed over a term of not less than 9 months and consisting of the following subjects:
 - a. 100 Hours of Anatomy;
 - b. 100 Hours of Health Service Management;
 - c. 100 Hours of Hydrotherapy;
 - d. 100 hours of Hygiene (Health wellness) and Practical Demonstration;
 - e. 100 Hours of Massage;
 - f. 100 Hours of Pathology;
 - g. 100 Hours of Physiology; and
 - h. The remaining 300 hours must be obtained in subject areas related to the clinical practice of massage therapy; and
5. Have received a successful rating on the initial inspection as set out in 172 NAC 83-005.01.

83-003.01A The applicant for a license must submit to the Department:

1. A complete application on Attachment A attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered; and
2. A curriculum plan which lists all of the subjects offered for completion of the massage therapy course of study;

3. A copy of the syllabus for each subject taught, on Attachment A1 attached to these regulations and incorporated by this reference or an alternate form which contains the same information, to include:
 - a. Title of course;
 - b. Instructor's Name;
 - c. Hours associated with each subject;
 - d. Description of course;
 - e. Course objectives;
 - f. Text books and Resource or Supplement References; and
 - g. Grading System;
4. The name of each staff person, including identification of a school manager; and a resume, vita or similar documentation for each staff person;
5. A draft copy of the school handbook or school bulletin;
6. A draft copy of the rules of the school;
7. A detailed floor plan or blueprint of the proposed school building;
8. A schedule of proposed hours of school operation;
9. Attestation by the applicant:
 - a. That s/he has not operated this school in Nebraska prior to the application for a license; or
 - b. To the actual number of days operated this school in Nebraska prior to the application for a license; and
10. The required license fee.

83-003.01B An application for a massage therapy school license must be submitted at least 30 days before the anticipated opening date of the school to allow for an initial inspection to be conducted.

83-003.02 Board and Department Responsibilities: The Board and Department will:

1. Review the application to determine completeness; and
2. Acknowledge receipt of the completed application by means of a written letter to the school with a copy to the appropriate school inspector.

83-003.02A The Department will contact the applicant and schedule an inspection to be complete prior to the anticipated opening date. The results of the inspection will be recorded on a form provided by the Department.

83-003.02B The Department will issue to each school passing the inspection a license and the school may begin operation.

83-003.02C When a credential will expire within 180 days after its initial issuance date, the Department will collect \$25, and the credential will be valid until the next subsequent

renewal date.

83-003.02D Administrative Penalty/Other Action: An individual who operates a school prior

to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 83-012, or such other action as provided in the statutes and regulations governing the credential.

83-003.03 Application for a Change in License for Existing Schools: Any school may apply for a change to its license, due to a change in Owner/Board of Directors, change in name, or a change in location. Each school license issued is in effect solely for the Owner/Board of Directors or Owner/Board of Directors and premises named thereon and will lapse automatically upon any change of Owner/Board of Directors as defined in this section or change of location.

The licensee must notify the Department at least 30 days prior to any change of Owner/Board of Directors, or address, and at least 60 days prior to closure, except in emergency circumstances as determined by the Department. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below:

83-003.03A Requirements for Change in Owner/Board of Directors: The applicant must:

1. Meet the requirements as set forth in 172 NAC 83-003.01; and
2. Submit to the Department:
 - a. A complete application on Attachment B attached to these regulations and incorporated by this reference, or an alternate form which contains the same information. Applications must be received at least 15 days before the proposed change of Owner/Board of Directors of the school. Only applications which are complete will be considered;
 - b. A list of the new Owner/Board of Directors, corporate owners, principal stockholders and partners;
 - c. Evidence of any changes to the curriculum plan, staff employed, handbook or school bulletin, physical design, or schedule of proposed hours of operation. If a change has occurred in the physical design, passage of an inspection is required prior to issuance of a license; and
 - d. The required fee for initial licensing.

83-003.03A1 The Department will act within 150 days upon all completed applications.

83-003.03B Requirements for Change in School Name: The applicant must:

1. Submit to the Department:
 - a. A complete application on Attachment B attached to these regulations and

incorporated by this reference, or an alternate form which contains the same information. The application must be received at least 15 days before the proposed name change of the school. Only applications which are complete will be considered; and

- b. The required fee for a reissued license.

83-003.03B1 The Department will act within 150 days upon all completed applications and will reissue a license with the change of school name identified on the license.

83-003.03C Requirements for Change in Location: The applicant must:

1. Meet the requirements as set forth in 172 NAC 83-003.01.
2. Submit to the Department:
 - a. A complete application on Attachment B, or an alternate form which contains the same information. Applications must be received by the Department at least 30 days before the proposed opening of the school. Only applications which are complete will be considered;
 - b. A list of the Owner/Board of Directors, corporate owners, principal stockholders and partners, if changes occurred;
 - c. A detailed floor plan or blueprint of the proposed school building;
 - d. Any changes to the curriculum plan, staff employed, handbook or school bulletin, or schedule of proposed hours of operation;
 - e. Attestation by the applicant:
 - (1) That s/he has not operated this school at this location in Nebraska prior to the application for a license; or
 - (2) To the actual number of days operated this school at this location in Nebraska prior to the application for a license; and
 - f. The required licensure fee.

83-003.03C1 Upon approval of the application, the Board and the Department will immediately conduct an inspection of the school.

83-003.03D The Department will issue to each school passing the inspection a license to begin operation.

83-003.03E If the school fails the inspection, the Department will send to the applicant by certified mail to the name and address of record in the Department, a letter setting forth the reasons for failure of the inspection. The applicant has 15 days of receipt of the certified letter to submit evidence of corrective action of the deficiencies listed in the failure letter.

83-003.03F The Department will then schedule a second inspection within 30 days of

receipt of the corrective action taken by the applicant.

83-003.03G Upon receiving a satisfactory rating, the Department will issue a license to the school and the school may begin operation.

83-003.03H If the school does not receive a satisfactory rating on the second inspection or fails to submit to the Department evidence of corrective action within the specified 15days, the application may be denied by the Department.

83-003.03I Administrative Penalty/Other Action: An individual who changes the location of a school and operates prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 83-012, or such other action as provided in the statutes and regulations governing the credential.

83-003.04 Procedures for Closing a School: When any school is permanently closed, the holder of the school license must notify the Department in writing at least 60 days prior to closure, and surrender the school license within 10days of closing.

83-004 REQUIREMENTS FOR MASSAGE THERAPY SCHOOL INSPECTIONS: All schools will receive an initial and thereafter, a biennial routine inspection. The criteria for inspection required by the Department and Board is set forth below:

83-004.01 Inspections: All inspections will be announced and conducted by the Board.

1. Initial Inspection: An initial inspection will be conducted within 30 days of the receipt of a completed massage therapy school licensure application and prior to the anticipated opening date.
2. Routine Inspection: A routine inspection will be conducted within each renewal period.

83-004.02 Documents Reviewed: The following will be reviewed during each inspection:

1. The license to operate a massage therapy school, displayed in a conspicuous location at the massage therapy school;
2. A sign, in intelligible lettering not less than one inch in height, containing the name of the massage therapy school. The sign must be in a conspicuous location at the entrance to the school;
3. The license of each massage therapist who practices massage therapy in the massage therapy school, displayed in a conspicuous location at the massage therapy school; and
4. A copy of the license of the regularly licensed physician affiliated with the staff, maintained in the files of the massage therapy school.

83-004.03 Physical Structure Review: A massage therapy school must have a clearly

identifiable location; each massage therapy school may be free-standing or part of an existing structure.

1. Floors, walls, ceilings, furniture, and fixtures must be kept in good repair, clean and sanitary at all times.
2. The school must not have the same entrance as or direct access to a massage therapy establishment. The entrance into the school used by the general public must lead directly from the outside to the school, except that a school may have its entrance open from a public area such as a foyer.
3. All rooms must have adequate lighting and ventilation and must be free of offensive odors and maintained at a comfortable temperature.
4. Each client receiving a massage must have said massage performed in a private location, except that an instructor may be present while the massage therapist is providing the client's massage.
5. Each massage therapy school must have toilet and lavatory facilities for use by clients and employees. Such will be located within or immediately adjacent to the premises. The toilet or lavatory must be equipped with hot and cold running water, toilet paper, soap, single service towels, and waste receptacle.
6. Each massage therapy school must have hot and cold running water for hand washing. At least a 5 gallon capacity hot water heater will be required if only a facility for hand washing is available and is to be used in the school. At least a 20 gallon capacity hot water heater will be required if a facility for showers and other hydrotherapy activities is available and is to be used in the school.
7. A massage therapy school must not allow a door or doors to any rooms in the school to be locked, barricaded, or blocked in any manner while simultaneously occupied by a massage therapy school employee and client.

83-004.04 Library Area Review: A library area must be easily accessible to the students and contain:

1. At least 1 copy of all textbooks utilized within the school;
2. Adequate resource books for the various courses of study;
3. Standard Dictionary of the English Language and Medical Dictionary;
4. At least 1 copy of the latest printing of Massage Therapy Act;
5. At least 1 copy of the latest printing of all rules and regulations relating to the Nebraska Massage Therapy Act; and
6. At least 1 copy of the current rules of the school.

83-004.05 Equipment and Sanitation Review: The massage therapy school must have the equipment necessary to provide massage therapy. This equipment must be clean,

well-maintained, and in good repair.

1. All massage tables must be:
 - a. At least 70 inches long, 22 inches wide, and a height appropriate for the massage therapist; and
 - b. Sturdy enough to accommodate clients weighing up to 500 pounds.
2. All massage therapy schools providing saunas or steam baths must be equipped with shower facilities.
3. All cabinets, showers, tubs, basins, massage or steam tables, carts/containers used for transporting laundry, and all other fixed equipment used must be thoroughly cleansed and must be free from harmful organisms by the application of a bactericidal agent.
3. Combs, brushes, shower caps, mechanical and massage instruments, or bathing devices that come in contact with the body must be sterilized or disinfected. Devices, equipment, or parts thereof having been used on one person must be sterilized or disinfected before being used on another person.
4. Sheeting must cover all massage tables or pads.
5. Clean linen such as sheets, towels, gowns, pillowcases, and all other linens used in the practice of massage must be provided for the use of each individual client.
6. All towels and linens used for one person must be laundered or cleaned in hot water and/or with the application of a germicidal /bactericidal agent before they are used by another person.
7. All clean linens must be kept in a clean dry area.
8. All soiled linens must be placed in a receptacle designated for soiled linens.
9. A separate cart/container must be used to transport clean and soiled linens.
10. Wastewater must be disposed of in a manner consistent with the requirements of the local authority, i.e., Department of Environmental Quality or city ordinances.
11. Creams and oils must be kept in clean, closed containers. Powder must be kept in a shaker.
12. Soap and clean individual towels must be provided by the licensee for use by all employees.
13. At least 1 bulletin board conspicuously located for posting and used as such; and
14. Audio visual or media equipment.

83-004.06 Operating Requirements: Each school of massage therapy must:

1. Not pay direct compensation to any of its students;
2. Ensure that all students are under the supervision of an instructor at all times. Students in internships and practicums must have an onsite supervisor who reports directly to the instructor; the onsite supervisor is not required to be licensed as a massage therapist;
3. Not credit a student with hours except when such hours were earned in the study or practice of massage therapy in accordance with the required curriculum, except massage schools may transfer college or university credit into the massage course of study;
4. Record hours on a daily basis;
5. Give periodic evaluations that are graded according to a formula established by the school. A student's final average, when in training, must be no less than an average of 75%. A final Board-Developed practical examination, as defined in 172 NAC 83-006, must be given before issuance of a diploma;
6. Post and adhere to all class schedules and the school curriculum;
7. Immediately notify the Department in writing of any change in instructional staff; and
8. Notify the Department in writing at least 30 days in advance of any change in name of the school.

83-004.07 Infectious and Contagious Disease Control: A massage therapy school must operate in such a manner that prevents the spread of infectious or contagious disease.

83-004.08 Failure to permit an inspection for the purposes set out in 172 NAC 83-003.01 and 83-003.03 will be grounds for denial of an initial massage therapy school license or for suspension of a massage therapy school's existing license.

83-005 CRITERIA FOR SUCCESSFUL COMPLETION OF A MASSAGE THERAPY SCHOOL INSPECTION: Each applicant for a school license must successfully complete an inspection to receive a license to operate. The criteria for successful completion of inspections are set forth below:

83-005.01 Criteria for Successful Completion of an Initial Inspection

83-005.01A The inspector will record a rating of "Satisfactory or Unsatisfactory" on the inspection report.

83-005.01B The inspector will record a rating of "Satisfactory" on the initial inspection when the school receives an overall inspection rating of 100% and an "Unsatisfactory" on the initial inspection when the school receives an overall inspection rating of less than 100% or if the inspector believes there is a severe health risk to the public.

1. When an applicant receives a rating of "Unsatisfactory" the applicant can not

operate the school. The school has 30 days from the date of the initial inspection to correct the deficiencies.

2. The inspector will conduct a re-inspection within 30 days of receipt of verification that all corrections cited on the inspection report are corrected.
3. If the school receives a "Satisfactory" rating after re-inspection, the inspector will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.
4. If the school receives an "Unsatisfactory" rating after the re-inspection, the Department will deny the applicant the issuance of a massage therapy school license.

83-005.02 Criteria for Successful Completion of a Routine Inspection

83-005.02A The inspector will issue a rating of "Satisfactory" on all routine inspections when the school receives an overall inspection rating of 100%.

83-005.02B The inspector will issue a rating of "Unsatisfactory" on all routine inspections when the school receives an overall inspection rating of less than 100%.

1. When a school receives a rating of "Unsatisfactory", the Department must forward to the school Owner/Board of Directors, written notification that the school's license has been placed on a probationary status until all deficiencies cited during the inspection are corrected. The school has 30 days from the date of the initial inspection to correct the deficiencies.
2. The inspector will conduct a re-inspection of the school within 15 days of receipt of verification that all corrections cited on the inspection report are corrected.
 - a. If the school meets the requirements at the time of re-inspection, the inspector will change the "Unsatisfactory" rating and enter a "Satisfactory" rating.
 - b. If the school receives an "Unsatisfactory" rating, after the re-inspection, the Department will, within 10 days of the completion of the re-inspection, give notice to the school that the license is suspended. The notice will be in written form and will:
 - (1) State that the school license is suspended;
 - (2) State the reasons for the school license suspension;
 - (3) State that the school license suspension will become final 30 days after the mailing of the notice of suspension unless the Owner/Board of Directors submits a written request for a hearing within such 30 day period; and
 - (4) Be sent to the Owner/Board of Directors by certified mail.
 - c. Upon receipt of a written request for a hearing, the Owner/Board of Directors

will be given a hearing before the Department. The Owner/Board of Directors must make a written request to the Department for a hearing and an appeal. The hearing must be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure for the Department.

- d. The Department's decision regarding the suspension of the license will become final 30 days after a copy of the decision is mailed to the Owner/Board of Directors, unless the Owner/Board of Directors appeals the decision.
3. When a school license is suspended for failure of a biennial inspection, the school must reapply to the Department for a license to operate as specified in 1712 NAC 83-003.

83-006 CRITERIA FOR THE BOARD-DEVELOPED PRACTICAL EXAMINATION: The Board-Developed practical examination must be administered by the school prior to the issuance of a diploma. The examination must be administered in two parts, which will test the applicant's ability to perform specific massage techniques and will test the applicant's knowledge of the steps involved in performing a massage.

83-006.01 Part I of the examination must test over the following techniques:

1. Effleurage;
2. Petrissage;
3. Tapotement or Percussion;
4. Friction; and
5. Vibration.

83-006.02 Part II of the examination must test over the following skills:

1. Professionalism;
2. Application and removal of oil;
3. Pressure;
4. Table Mechanics;
5. Rhythm;
6. Specificity;
7. Routine;
8. Percussive and vibration techniques; and
9. Therapeutics.

83-006.03 The maximum points allowed on each part must be 50, with a combined total of 100. The passing score on the examination must be 75.

83-006.04 Each student must be administered the examination by at least two instructors. Each instructor must score each part of the examination, and the average of the scores must be the final score for the student.

83-006.05 The board may observe any board-developed practical examination administered by the school for the purpose of adherence to the test outline specified in 172 NAC 83-

006.01, 83-006.02, and 83-006.03.

83-006.06 The school must comply with the provisions of the Americans with Disabilities Act (42 USCG Section 12101, et.seq.) and Title VII of the Civil Rights Act, as amended (42 USC 2000e, et.seq.) in accommodating candidates who, because of a disability, need special arrangements to enable them to take an examination.

83-007 DUTIES AND RESPONSIBILITIES OF LICENSEE, STUDENTS, MANAGER, OWNER/BOARD OF DIRECTORS: The following duties and responsibilities must be strictly adhered to:

83-007.01 Duty and Responsibility of Massage Therapist(s) and Students: Each licensed massage therapist and student on duty is responsible for providing massage therapy in a sanitary manner:

1. Wash hands with soap and water before and after serving each client;
2. Wear clean outer garments free of dirt, offensive odor, and stains; and
3. Be free of open sores and infectious or contagious disease.

83-007.02 Duties and Responsibilities of Manager and Owner/Board of Directors: Each massage therapy school Owner/Board of Directors and manager must:

1. Verify that all massage therapists employed by the massage therapy school have a valid Nebraska license to practice massage therapy;
2. Notify the Department if the licensed physician affiliated with the school or any of the licensed massage therapy instructors terminate employment with the school. If the licensed physician terminates his/her affiliation, the manager or Owner/Board of Directors must notify the Department of who will replace that physician. If any of the licensed massage therapy instructors terminate employment, the manager or Owner/Board of Directors must notify the Department who will replace that instructor and submit a resume, vita or similar documentation for the new instructor. If the massage therapy instructor will not be replaced, the manager or Owner/Board of Directors must explain how the departing instructor's duties will be redistributed.
3. Post all licenses in such a manner that clients can readily see the documents;
4. Insure that a copy of these rules and regulations governing massage therapy schools is accessible to the staff; and
5. Insure that the massage therapy school is operated in accordance with the statutes and rules and regulations governing the profession of Massage Therapy.

83-007.03 Owner/Board of Directors Liability: The owner/board of directors of each school of massage therapy have full responsibility for ensuring that the school is operated in compliance with all statutes, rules and regulations governing massage therapy and are liable for any and all violations occurring in the school.

83-007.04 Manager or Person in Charge Liability: Each school must be operated by a manager or person in charge who must be present on the premises of the school at all times

while the school is in operation. The manager or person in charge may have responsibility for the daily operation of the school and, if so, must share with the owner/board of directors the liability for any and all violations occurring in the school.

83-007.05 General Provisions:

1. Advertising. All advertising by schools must state that services are performed by students who are in training in massage therapy.
2. Statutes and Regulations Observed: All school personnel and students must comply with the Massage Therapy Practice Act and the rules and regulations.
3. School Rules: The school rules must be consistent with acceptable disciplinary practices and professional conduct and ethics. A copy of the rules of the school must be on file with the Department. An emergency evacuation plan must be posted in the clinical area.
4. Smoking: Smoking is prohibited in the entire school.
5. Unprofessional Conduct: All school personnel and students must abide by the acts of unprofessional conduct as specified in 172 NAC 81-011.

83-008 PROCEDURES FOR RENEWAL OF A LICENSE: All school licenses issued by the Department under the Act and these regulations expire on November 1 of each odd-numbered year.

83-008.01 Renewal Process: Any licensee who wishes to renew his/her school license must:

1. Pay the renewal fee as prescribed in 172 NAC 83-013; and
2. Cause to be submitted to the Department:
 - a. The renewal notice; and
 - b. The renewal fee;

83-008.02 First Notice: At least 30 days before November 1 of each odd-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of operation as noted in the records of the Department.

83-008.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license; and
5. The renewal fee as prescribed in 172 NAC 83-013;

83-008.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice; and
2. The renewal fee.

83-008.03 Second Notice: The Department must send to each licensee who fails to renew his/her school license in response to the first notice a second notice of renewal in accordance with the requirements of 172 NAC 83-008.01 that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, the license will be revoked as specified in 172 NAC 83-009.

83-008.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. Attestation by the licensee that:
 - a. That s/he has not operate the school in Nebraska since the expiration of its license; or
 - b. To the actual number of days s/he operated the school in Nebraska since the expiration of its license; and
3. The renewal fee and the additional late fee of \$25.

83-008.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice of hearing and make proper record of the revocation.

83-008.05 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

83-008.06 Administrative Penalty/Other Action: An individual who operates an establishment after the expiration of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 83-012, or such other action as provided in the statutes and regulations governing the credential.

83-009 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department may revoke a credential when the credential holder fails to meet the renewal requirements.

83-009.01 Revocation for Nonpayment of Renewal Fee or Late fee within Thirty Days of Expiration of the Credential: When a credential holder fails to pay the required renewal fee and/or to pay a late fee of \$25 within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

83-009.01A A post revocation notice will be sent which will specify that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential holder failed to renew the credential;

3. The Department has revoked the credential; and
4. The credential holder has a right to request reinstatement of the credential.

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83-010 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

83-010.01 The Department will deny an application for a license when the massage therapy school fails to meet the requirements for licensure as specified in 172 NAC 83-003 or for any of the acts listed in 172 NAC 83-010.02.

83-010.02 The Department may deny, refuse renewal of, limit, suspend, or revoke massage therapy school licenses for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license.
2. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license by a person not licensed to do so.
3. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such school licensee's professional excellence or abilities, in advertisements.
4. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act.
5. Failure to meet the standards/criteria as specified in 172 NAC 83-83-005.
6. Willful or repeated violations of the Uniform Licensing Law or these rules and regulations.

83-010.03 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend a license other than for non-payment of renewal fee, the applicant or license holder will be given an opportunity for a hearing before the Department and will have the right to present evidence on his or her own behalf. Hearings before the Department will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

83-011 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to operate a school in total or in part and who seek the authority to return to operation in Nebraska with a valid Nebraska credential.

83-011.01 Eligibility

83-011.01A A school whose credential has been previously:

1. Revoked for failure to meet the renewal requirements; or
2. Suspended, limited or revoked for disciplinary reasons

may request, at any time, to be re-credentialed and re-authorized to operate under the credential, in accord with these regulations.

83-011.01B A school whose credential has been revoked for disciplinary reasons may

apply for reinstatement only after a period of two years has elapsed from the date of revocation.

83-011.01C A school which operates prior to re-credentialing is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 82-012, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to operate under the credential, and referral for prosecution for uncredentialed operation, as provided in the statutes and regulations governing the credential.

83-011.02 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. Paying the renewal fee, the late fee of \$35, and any other applicable fees; and
2. Attest:
 - a. That s/he has not operated the school in Nebraska since it last held an active credential; or
 - b. To the actual number of days s/he operated the school if the applicant has operated in Nebraska since it last held an active credential.

83-011.03 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name; and
 - b. Address.
2. The renewal fee, the late fee of \$35, and any other applicable fees:
3. Attestation by the applicant:
 - a. That s/he has not operated the school in Nebraska since it last held an active credential; or
 - b. To the actual number of days operated if the applicant has operated the school in Nebraska since it last held an active credential.
 - (1) If an applicant has operated the school after its credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 83-012 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has operated the school after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 83-011.03B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

83-011.03A The Board's recommendation to the Department may be to:

1. Reinstall the credential;
2. Reinstall the credential with terms, conditions, or restrictions; or
3. Deny reinstatement.

83-011.03B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstall the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 83-012 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstall the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 83-012 if warranted; or
 - b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

83-011.04 Reapplication After One Year of Revocation for Non-Payment of Renewal Fee: A massage therapy school whose license has been revoked for non-payment of renewal fees must reapply to the Department for licensure after one year of revocation as set forth in 172 NAC 83-003.01.

83-011.05 Reapplication After Disciplinary Action: A massage therapy school whose license has been limited, suspended, or revoked for disciplinary action must reapply to the Department for licensure as set forth in 172 NAC 83-003.01.

83-011.06 Voluntarily Surrendered License:

1. Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.
2. Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.
 - a. If an individual has operated the school while his/her credential was voluntarily surrendered for a specific and definite period of

time, the Department may assess an Administrative Penalty pursuant to 172 NAC 83-012.

3. Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

83-012 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

83-012.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

83-012.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.

2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

83-012.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's Rules of Practice and Procedure.

83-013 SCHEDULE OF FEES: The following fees have been set by the Department:

83-013.01 Initial License Fee: By an applicant for a license to operate a school, the fee of \$100.

83-013.02 Pro-rated Initial License Fee: For issuance of a credential that will expire within 180 days after its initial issuance date, a fee of \$25.

83-013.03 License Renewal Fee: By an applicant for renewal on a biennial basis of a license to operate a school, the fee of \$100.

83-013.04 Renewal Late Fee: By an applicant for renewal on a biennial basis of a credential, who fails to pay the renewal fee on or before the expiration date of his/her credential, the fee of \$25 as a late fee in addition to the renewal fee.

83-013.05 Change in License: By an applicant who operates an existing massage therapy school and requests a change in:

1. Owner/Board of Directors of the school, the reissued fee of \$10.
2. School name, the reissued fee of \$10.
3. Location of the school, the same fee as the initial license fee of \$100.

83-013.06 Certification of License Fee: For issuance of a certification of a credential, the fee of \$25. The certification includes information regarding:

1. The date of issuance;
2. Whether disciplinary action has been taken against the credential; and
3. The current status of the credential.

83-013.07 Verification of License Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.

83-013.08 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

83-013.09 Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the credentialing fee is less than \$25.

83-013.10 Reinstatement Late Fee: For reinstatement of a credential: for failure to meet renewal requirements within one year, the fee of \$35 in addition to the renewal fee.

These regulations replace Title 172, Chapter 83, Regulations Governing the Practice of Massage Therapy, last effective date April 6, 1999 and June 3, 2003.

Approved by the Attorney General: November 29, 2004
Approved by the Governor: January 4, 2005
Filed with the Secretary of State: January 4, 2005
Effective Date: January 9, 2005

The applications referred to in these regulations may be obtained from the Department.